

United States District Court
Middle District of Florida
Jacksonville Division

EVA HELDA SAVALES,

Plaintiff,

v.

No. 3:19-CV-523-TJC-PDB

JANENE WATERS ETC.,

Defendants.

Order

In 2018, Eva Helda Savales, through counsel, filed this action in state court. A state probate court later adjudicated Savales incapacitated,¹ found her incapable of suing and defending lawsuits, appointed Constance Buchanan and Sara Shoemaker to serve as limited co-guardians² of her person and property, and authorized them to continue this federal action. Doc. 77-1; *see In re: Eva Savales*, No. 16-2020-MH-1524-XXXX-MA (Fla. 4th Cir., Duval County).

Buchanan and Shoemaker now move for leave to substitute themselves as plaintiffs. Doc. 83. The defendants have no opposition.

¹Under Florida law, “Incapacitated person” means a person who has been judicially determined to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of the person.” Fla. Stat. § 744.102(12). In 1989, the Florida Legislature amended the statute to replace “incompetency” with “incapacity.” 1989 Fla. Sess. Law Serv. 89–96.

²Under Florida law, “Limited guardian” means a guardian who has been appointed by the court to exercise the legal rights and powers specifically designated by court order entered after the court has found that the ward lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person has voluntarily petitioned for appointment of a limited guardian.” Fla. Stat. § 744.102(9)(a).

Federal Rule of Civil Procedure 25 provides, “If a party becomes incompetent, the court may, on motion, permit the action to be continued by or against the party’s representative.” Fed. R. Civ. P. 25(b).

Considering the probate court’s adjudication and finding, considering the circumstances described in the July 2020 petitions filed in the probate court, and considering the absence of opposition, permitting Buchanan and Savales to continue this action is warranted.

The Court **grants** the motion, Doc. 83, and **permits** Buchanan and Shoemaker to continue this action on Savales’s behalf. The Court **directs** the clerk of court to amend the docket to reflect that the plaintiffs are “Constance Buchanan and Sara Shoemaker as the limited co-guardians of and on behalf of Eva Helda Savales.”

Ordered in Jacksonville, Florida, on May 7, 2021.



PATRICIA D. BARKSDALE
United States Magistrate Judge